

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

An act to amend Sections 6405, 6459, 7093.5, 7326, 8105, 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332, 60022, 60507, 60604, 60606, and 60636 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1060, as introduced, Committee on Revenue and Taxation. Tax administration.

(1) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Existing law exempts from the use tax the first \$400 of tangible personal property that is both purchased in a foreign country and personally hand carried into this state.

This bill would increase that use tax exemption to the first \$800 of tangible personal property that is both purchased in a foreign country and personally hand carried into this state.

(2) Existing law requires the State Board of Equalization to administer various taxes and fees. The State Board of Equalization, as part of its administrative functions, is authorized to enter into settlement agreements if it is determined that the settlement amount is consistent with a reasonable evaluation of the costs and risks associated with litigation. Under existing law, the State Board of Equalization is required to maintain records of settlement agreements in an amount that is in excess of \$500. There is no provision in current law that authorizes

the State Board of Equalization to destroy those records after a reasonable period of time has elapsed.

This bill would provide that the State Board of Equalization is required to maintain those settlement agreement documents for at least one year.

(3) Existing law requires sales and use tax returns to be filed and payments to be remitted on or before the last day of the month following the close of the reporting period. Existing law extends the time for filing tax returns and remitting payments in the case of a taxpayer, that, as a result of the delay in the adoption of the state's budget, is an unpaid creditor of the state to the last day of the month in which the budget is adopted.

This bill would limit the authorization of this extension to a taxpayer with a tax liability that does not exceed \$ _____, and would increase the extension of the time for filing the tax return and remitting the payment to the last day of the month following the month in which the budget is adopted.

(4) The existing Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law authorize a taxpayer to file a claim for refund within 3 years from the date the fuel was purchased.

This bill would authorize a taxpayer to file a claim for refund within 3 years from the date the fuel was purchased, or within 6 months from the date the taxpayer received the invoice for the tax, whichever period occurs later.

(5) The Motor Vehicle Fuel Tax Law imposes a tax on motor vehicle fuel at the point of the first distribution of that fuel, but does not exclude racing fuel from the definition of motor vehicle fuel.

This bill would exclude racing fuel from the definition of motor vehicle fuel.

(6) The provision of the existing Diesel Fuel Tax Law, which is scheduled to become inoperative on January 1, 2007, that defines the term diesel fuel, excludes from that definition gasoline, liquefied petroleum gas, natural gas in a liquid or gaseous form, and alcohol.

This bill would, for the period beginning on and after January 1, 2007, exclude gasoline, liquefied petroleum gas, natural gas in a liquid or gaseous form, and alcohol from the definition of diesel fuel.

(7) The existing Diesel Fuel Tax Law requires specified persons that are involved in the sale, removal, transportation, or storage of diesel fuel to keep and maintain specified records.



This bill would expand this recordkeeping requirement to qualified highway vehicle operators, highway vehicle operator/refuelers, pipeline operators, and vessel operators.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6405 of the Revenue and Taxation Code
2 is amended to read:

3 6405. Notwithstanding Section 6246, the storage, use, or
4 other consumption in this state of the first ~~four hundred dollars~~
5 ~~(\$400)~~ *eight hundred dollars (\$800)* of tangible personal property
6 purchased in a foreign country by an individual from a retailer and
7 personally hand carried into this state from the foreign country
8 within any 30-day period is exempt from the use tax. This section
9 shall not apply to property sent or shipped to this state.

10 SEC. 2. Section 6459 of the Revenue and Taxation Code is
11 amended to read:

12 6459. (a) The board for good cause may extend for not to
13 exceed one month the time for making any return or paying any
14 amount required to be paid under this part. The extension may be
15 granted at any time provided a request therefor is filed with the
16 board within or prior to the period for which the extension may be
17 granted.

18 Any person to whom an extension is granted shall pay, in
19 addition to the tax, interest at the modified adjusted rate per month,
20 or fraction thereof, established pursuant to Section 6591.5, from
21 the date on which the tax would have been due without the
22 extension until the date of payment.

23 (b) The board may grant an extension for more than one month
24 if ~~both~~ *all* of the following conditions occur:

25 (1) A budget for the state has not been adopted by July 1.

26 (2) The person requesting the extension is a creditor of the state
27 who has not been paid because of the state's failure to timely adopt
28 a budget.

29 (3) *The sales tax liability of the person requesting the extension*
30 *does not exceed \$ ____.*

31 Any extension granted under this subdivision shall expire no
32 later than the last day of the month *following the month*, in which

1 the budget is adopted or one month from the due date of the return
2 or payment, whichever comes later.

3 Any person to whom an extension has been granted under this
4 subdivision shall pay, in addition to the tax, interest at the modified
5 adjusted rate per month, or fraction thereof, established pursuant
6 to Section 6591.5, from the date on which the tax would have been
7 due without the extension until the date of payment. However, no
8 interest shall be due on that portion of the payment equivalent to
9 the amount due to the person from the state on the due date of the
10 payment.

11 SEC. 3. Section 7093.5 of the Revenue and Taxation Code is
12 amended to read:

13 7093.5. (a) It is the intent of the Legislature that the State
14 Board of Equalization, its staff, and the Attorney General pursue
15 settlements as authorized under this section with respect to civil tax
16 matters in dispute that are the subject of protests, appeals, or refund
17 claims, consistent with a reasonable evaluation of the costs and
18 risks associated with litigation of these matters.

19 (b) (1) Except as provided in paragraph (3) and subject to
20 paragraph (2), the executive director or chief counsel, if authorized
21 by the executive director, of the board may recommend to the State
22 Board of Equalization, itself, a settlement of any civil tax matter
23 in dispute.

24 (2) No recommendation of settlement shall be submitted to the
25 board, itself, unless and until that recommendation has been
26 submitted by the executive director or chief counsel to the
27 Attorney General. Within 30 days of receiving that
28 recommendation, the Attorney General shall review the
29 recommendation and advise in writing the executive director or
30 chief counsel of the board of his or her conclusions as to whether
31 the recommendation is reasonable from an overall perspective.
32 The executive director or chief counsel shall, with each
33 recommendation of settlement submitted to the board, itself, also
34 submit the Attorney General's written conclusions obtained
35 pursuant to this paragraph.

36 (3) A settlement of any civil tax matter in dispute involving a
37 reduction of tax or penalties in settlement, the total of which
38 reduction of tax and penalties in settlement does not exceed five
39 thousand dollars (\$5,000), may be approved by the executive
40 director and chief counsel, jointly. The executive director shall



1 notify the board, itself, of any settlement approved pursuant to this
2 paragraph.

3 (c) Whenever a reduction of tax or penalties or total tax and
4 penalties in settlement in excess of five hundred dollars (\$500) is
5 approved pursuant to this section, there shall be placed on file, *for*
6 *at least one year*, in the office of the executive director of the board
7 a public record with respect to that settlement. The public record
8 shall include all of the following information:

9 (1) The name or names of the taxpayers who are parties to the
10 settlement.

11 (2) The total amount in dispute.

12 (3) The amount agreed to pursuant to the settlement.

13 (4) A summary of the reasons why the settlement is in the best
14 interests of the State of California.

15 (5) For any settlement approved by the board, itself, the
16 Attorney General's conclusion as to whether the recommendation
17 of settlement was reasonable from an overall perspective.

18 The public record shall not include any information that relates
19 to any trade secret, patent, process, style of work, apparatus,
20 business secret, or organizational structure that, if disclosed,
21 would adversely affect the taxpayer or the national defense.

22 (d) The members of the State Board of Equalization shall not
23 participate in the settlement of tax matters pursuant to this section,
24 except as provided in subdivision (e).

25 (e) (1) Any recommendation for settlement shall be approved
26 or disapproved by the board, itself, within 45 days of the
27 submission of that recommendation to the board. Any
28 recommendation for settlement that is not either approved or
29 disapproved by the board, itself, within 45 days of the submission
30 of that recommendation shall be deemed approved. Upon approval
31 of a recommendation for settlement, the matter shall be referred
32 back to the executive director or chief counsel in accordance with
33 the decision of the board.

34 (2) Disapproval of a recommendation for settlement shall be
35 made only by a majority vote of the board. Where the board
36 disapproves a recommendation for settlement, the matter shall be
37 remanded to board staff for further negotiation, and may be
38 resubmitted to the board, in the same manner and subject to the
39 same requirements as the initial submission, at the discretion of the
40 executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement considered or entered into pursuant to this section shall constitute confidential tax information for purposes of Section 7056.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 4. Section 7326 of the Revenue and Taxation Code is amended to read:

7326. “Motor vehicle fuel” means gasoline and aviation gasoline. It does not include jet fuel, diesel fuel, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, ~~or~~ alcohol, *or racing fuel*.

SEC. 5. Section 8105 of the Revenue and Taxation Code is amended to read:

8105. All applications for refund provided under this article shall be filed within three years from the date of the purchase of the motor vehicle fuel *or, if the tax was not invoiced at the time of the purchase of the motor vehicle fuel, the application for refund shall be filed within six months after the receipt of an invoice for the tax, whichever period expires later*. Any application filed after the time prescribed shall not be considered for any purpose by the Controller, the Treasurer, or the state.

SEC. 6. Section 9271 of the Revenue and Taxation Code is amended to read:

9271. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax

1 matters in dispute that are the subject of protests, appeals, or refund
2 claims, consistent with a reasonable evaluation of the costs and
3 risks associated with litigation of these matters.

4 (b) (1) Subject to paragraph (2), the executive director or chief
5 counsel, if authorized by the executive director, of the board may
6 recommend to the State Board of Equalization, itself, a settlement
7 of any civil tax matter in dispute.

8 (2) No recommendation of settlement shall be submitted to the
9 board unless and until that recommendation has been submitted by
10 the executive director or chief counsel to the Attorney General.
11 Within 30 days of receiving that recommendation, the Attorney
12 General shall review the recommendation and advise, in writing,
13 the executive director or chief counsel of the board of his or her
14 conclusions as to whether the recommendation is reasonable from
15 an overall perspective. The executive director or chief counsel
16 shall, with each recommendation of settlement submitted to the
17 board, also submit the Attorney General's written conclusions
18 obtained pursuant to this paragraph.

19 (c) Whenever a reduction of tax in settlement in excess of five
20 hundred dollars (\$500) is approved pursuant to this section, there
21 shall be placed on file, *for at least one year*, in the office of the
22 executive director of the board a public record with respect to that
23 settlement. The public record shall include all of the following
24 information:

25 (1) The name or names of the taxpayers who are parties to the
26 settlement.

27 (2) The total amount in dispute.

28 (3) The amount agreed to pursuant to the settlement.

29 (4) A summary of the reasons why the settlement is in the best
30 interests of the State of California.

31 (5) The Attorney General's conclusion as to whether the
32 recommendation of settlement was reasonable from an overall
33 perspective.

34 The public record shall not include any information that relates
35 to any trade secret, patent, process, style of work, apparatus,
36 business secret, or organizational structure that, if disclosed,
37 would adversely affect the taxpayer or the national defense.

38 (d) The members of the State Board of Equalization shall not
39 participate in the settlement of tax matters pursuant to this section,
40 except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Section 9255.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 7. Section 30459.1 of the Revenue and Taxation Code is amended to read:

30459.1. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund

1 claims, consistent with a reasonable evaluation of the costs and
2 risks associated with litigation of these matters.

3 (b) (1) Subject to paragraph (2), the executive director or chief
4 counsel, if authorized by the executive director, of the board may
5 recommend to the State Board of Equalization, itself, a settlement
6 of any civil tax matter in dispute.

7 (2) No recommendation of settlement shall be submitted to the
8 board unless and until that recommendation has been submitted by
9 the executive director or chief counsel to the Attorney General.
10 Within 30 days of receiving that recommendation, the Attorney
11 General shall review the recommendation and advise, in writing,
12 the executive director or chief counsel of the board of his or her
13 conclusions as to whether the recommendation is reasonable from
14 an overall perspective. The executive director or chief counsel
15 shall, with each recommendation of settlement submitted to the
16 board, also submit the Attorney General's written conclusions
17 obtained pursuant to this paragraph.

18 (c) Whenever a reduction of tax in settlement in excess of five
19 hundred dollars (\$500) is approved pursuant to this section, there
20 shall be placed on file, *for at least one year*; in the office of the
21 executive director of the board a public record with respect to that
22 settlement. The public record shall include all of the following
23 information:

24 (1) The name or names of the taxpayers who are parties to the
25 settlement.

26 (2) The total amount in dispute.

27 (3) The amount agreed to pursuant to the settlement.

28 (4) A summary of the reasons why the settlement is in the best
29 interests of the State of California.

30 (5) The Attorney General's conclusion as to whether the
31 recommendation of settlement was reasonable from an overall
32 perspective.

33 The public record shall not include any information that relates
34 to any trade secret, patent, process, style of work, apparatus,
35 business secret, or organizational structure that, if disclosed,
36 would adversely affect the taxpayer or the national defense.

37 (d) The members of the State Board of Equalization shall not
38 participate in the settlement of tax matters pursuant to this section,
39 except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Section 30455.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 8. Section 32471 of the Revenue and Taxation Code is amended to read:

32471. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund

1 claims, consistent with a reasonable evaluation of the costs and
2 risks associated with litigation of these matters.

3 (b) (1) Subject to paragraph (2), the executive director or chief
4 counsel, if authorized by the executive director, of the board may
5 recommend to the State Board of Equalization, itself, a settlement
6 of any civil tax matter in dispute.

7 (2) No recommendation of settlement shall be submitted to the
8 board unless and until that recommendation has been submitted by
9 the executive director or chief counsel to the Attorney General.
10 Within 30 days of receiving that recommendation, the Attorney
11 General shall review the recommendation and advise, in writing,
12 the executive director or chief counsel of the board of his or her
13 conclusions as to whether the recommendation is reasonable from
14 an overall perspective. The executive director or chief counsel
15 shall, with each recommendation of settlement submitted to the
16 board, also submit the Attorney General's written conclusions
17 obtained pursuant to this paragraph.

18 (c) Whenever a reduction of tax in settlement in excess of five
19 hundred dollars (\$500) is approved pursuant to this section, there
20 shall be placed on file, *for at least one year*; in the office of the
21 executive director of the board a public record with respect to that
22 settlement. The public record shall include all of the following
23 information:

24 (1) The name or names of the taxpayers who are parties to the
25 settlement.

26 (2) The total amount in dispute.

27 (3) The amount agreed to pursuant to the settlement.

28 (4) A summary of the reasons why the settlement is in the best
29 interests of the State of California.

30 (5) The Attorney General's conclusion as to whether the
31 recommendation of settlement was reasonable from an overall
32 perspective.

33 The public record shall not include any information that relates
34 to any trade secret, patent, process, style of work, apparatus,
35 business secret, or organizational structure that, if disclosed,
36 would adversely affect the taxpayer or the national defense.

37 (d) The members of the State Board of Equalization shall not
38 participate in the settlement of tax matters pursuant to this section,
39 except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Section 32455.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 9. Section 40211 of the Revenue and Taxation Code is amended to read:

40211. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to surcharge matters in dispute that are the subject of protests,

1 appeals, or refund claims, consistent with a reasonable evaluation
2 of the costs and risks associated with litigation of these matters.

3 (b) (1) Subject to paragraph (2), the executive director or chief
4 counsel, if authorized by the executive director, of the board may
5 recommend to the State Board of Equalization, itself, a settlement
6 of any surcharge matter in dispute.

7 (2) No recommendation of settlement shall be submitted to the
8 board unless and until that recommendation has been submitted by
9 the executive director or chief counsel to the Attorney General.
10 Within 30 days of receiving that recommendation, the Attorney
11 General shall review the recommendation and advise, in writing,
12 the executive director or chief counsel of the board of his or her
13 conclusions as to whether the recommendation is reasonable from
14 an overall perspective. The executive director or chief counsel
15 shall, with each recommendation of settlement submitted to the
16 board, also submit the Attorney General's written conclusions
17 obtained pursuant to this paragraph.

18 (c) Whenever a reduction of surcharge in settlement in excess
19 of five hundred dollars (\$500) is approved pursuant to this section,
20 there shall be placed on file, *for at least one year*, in the office of
21 the executive director of the board a public record with respect to
22 that settlement. The public record shall include all of the following
23 information:

24 (1) The name or names of the surcharge payers who are parties
25 to the settlement.

26 (2) The total amount in dispute.

27 (3) The amount agreed to pursuant to the settlement.

28 (4) A summary of the reasons why the settlement is in the best
29 interests of the State of California.

30 (5) The Attorney General's conclusion as to whether the
31 recommendation of settlement was reasonable from an overall
32 perspective.

33 The public record shall not include any information that relates
34 to any trade secret, patent, process, style of work, apparatus,
35 business secret, or organizational structure that, if disclosed,
36 would adversely affect the surcharge payer or the national defense.

37 (d) The members of the State Board of Equalization shall not
38 participate in the settlement of surcharge matters pursuant to this
39 section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions.

(h) This section shall apply only to surcharge matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 10. Section 41171 of the Revenue and Taxation Code is amended to read:

41171. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to surcharge matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any surcharge matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of surcharge in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, *for at least one year*, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the surcharge payers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the surcharge payer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of surcharge matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any

1 recommendation for settlement that is not either approved or
2 disapproved by the board within 45 days of the submission of that
3 recommendation shall be deemed approved. Upon approval of a
4 recommendation for settlement, the matter shall be referred back
5 to the executive director or chief counsel in accordance with the
6 decision of the board.

7 (2) Disapproval of a recommendation for settlement shall be
8 made only by a majority vote of the board. Where the board
9 disapproves a recommendation for settlement, the matter shall be
10 remanded to board staff for further negotiation, and may be
11 resubmitted to the board, in the same manner and subject to the
12 same requirements as the initial submission, at the discretion of the
13 executive director or chief counsel.

14 (f) All settlements entered into pursuant to this section shall be
15 final and nonappealable, except upon a showing of fraud or
16 misrepresentation with respect to a material fact.

17 (g) Any proceedings undertaken by the board itself pursuant to
18 a settlement as described in this section shall be conducted in a
19 closed session or sessions.

20 (h) This section shall apply only to surcharge matters in dispute
21 on or after the effective date of the act adding this subdivision.

22 (i) The Legislature finds that it is essential for fiscal purposes
23 that the settlement program authorized by this section be
24 expeditiously implemented. Accordingly, Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code shall not apply to any determination,
27 rule, notice, or guideline established or issued by the board in
28 implementing and administering the settlement program
29 authorized by this section.

30 SEC. 11. Section 43522 of the Revenue and Taxation Code is
31 amended to read:

32 43522. (a) It is the intent of the Legislature that the State
33 Board of Equalization, its staff, and the Attorney General pursue
34 settlements as authorized under this section with respect to civil tax
35 matters in dispute that are the subject of protests, appeals, or refund
36 claims, consistent with a reasonable evaluation of the costs and
37 risks associated with litigation of these matters.

38 (b) (1) Subject to paragraph (2), the executive director or chief
39 counsel, if authorized by the executive director, of the board may
40 recommend to the State Board of Equalization, itself, a settlement

1 of any civil tax matter in dispute which arises under Section
2 105190 or 105310 of the Health and Safety Code.

3 (2) No recommendation of settlement shall be submitted to the
4 board unless and until that recommendation has been submitted by
5 the executive director or chief counsel to the Attorney General.
6 Within 30 days of receiving that recommendation, the Attorney
7 General shall review the recommendation and advise, in writing,
8 the executive director or chief counsel of the board of his or her
9 conclusions as to whether the recommendation is reasonable from
10 an overall perspective. The executive director or chief counsel
11 shall, with each recommendation of settlement submitted to the
12 board, also submit the Attorney General's written conclusions
13 obtained pursuant to this paragraph.

14 (c) Whenever a reduction of tax in settlement in excess of five
15 hundred dollars (\$500) is approved pursuant to this section, there
16 shall be placed on file, *for at least one year*, in the office of the
17 executive director of the board a public record with respect to that
18 settlement. The public record shall include all of the following
19 information:

20 (1) The name or names of the taxpayers who are parties to the
21 settlement.

22 (2) The total amount in dispute.

23 (3) The amount agreed to pursuant to the settlement.

24 (4) A summary of the reasons why the settlement is in the best
25 interests of the State of California.

26 (5) The Attorney General's conclusion as to whether the
27 recommendation of settlement was reasonable from an overall
28 perspective.

29 The public record shall not include any information that relates
30 to any trade secret, patent, process, style of work, apparatus,
31 business secret, or organizational structure that, if disclosed,
32 would adversely affect the taxpayer or the national defense.

33 (d) The members of the State Board of Equalization shall not
34 participate in the settlement of tax matters pursuant to this section,
35 except as provided in subdivision (e).

36 (e) (1) Any recommendation for settlement shall be approved
37 or disapproved by the board, itself, within 45 days of the
38 submission of that recommendation to the board. Any
39 recommendation for settlement that is not either approved or
40 disapproved by the board within 45 days of the submission of that

1 recommendation shall be deemed approved. Upon approval of a
2 recommendation for settlement, the matter shall be referred back
3 to the executive director or chief counsel in accordance with the
4 decision of the board.

5 (2) Disapproval of a recommendation for settlement shall be
6 made only by a majority vote of the board. Where the board
7 disapproves a recommendation for settlement, the matter shall be
8 remanded to board staff for further negotiation, and may be
9 resubmitted to the board, in the same manner and subject to the
10 same requirements as the initial submission, at the discretion of the
11 executive director or chief counsel.

12 (f) All settlements entered into pursuant to this section shall be
13 final and nonappealable, except upon a showing of fraud or
14 misrepresentation with respect to a material fact.

15 (g) Any proceedings undertaken by the board itself pursuant to
16 a settlement as described in this section shall be conducted in a
17 closed session or sessions. Except as provided in subdivision (c),
18 any settlement entered into pursuant to this section shall constitute
19 confidential tax information for purposes of Section 43651.

20 (h) This section shall apply only to civil tax matters in dispute
21 on or after the effective date of the act adding this subdivision.

22 (i) The Legislature finds that it is essential for fiscal purposes
23 that the settlement program authorized by this section be
24 expeditiously implemented. Accordingly, Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code shall not apply to any determination,
27 rule, notice, or guideline established or issued by the board in
28 implementing and administering the settlement program
29 authorized by this section.

30 SEC. 12. Section 45867 of the Revenue and Taxation Code is
31 amended to read:

32 45867. (a) It is the intent of the Legislature that the State
33 Board of Equalization, its staff, and the Attorney General pursue
34 settlements as authorized under this section with respect to fee
35 matters in dispute that are the subject of protests, appeals, or refund
36 claims, consistent with a reasonable evaluation of the costs and
37 risks associated with litigation of these matters.

38 (b) (1) Subject to paragraph (2), the executive director or chief
39 counsel, if authorized by the executive director, of the board may

recommend to the State Board of Equalization, itself, a settlement of any fee matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of fees in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, *for at least one year*, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the feepayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the feepayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of fee matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that

1 recommendation shall be deemed approved. Upon approval of a
2 recommendation for settlement, the matter shall be referred back
3 to the executive director or chief counsel in accordance with the
4 decision of the board.

5 (2) Disapproval of a recommendation for settlement shall be
6 made only by a majority vote of the board. Where the board
7 disapproves a recommendation for settlement, the matter shall be
8 remanded to board staff for further negotiation, and may be
9 resubmitted to the board, in the same manner and subject to the
10 same requirements as the initial submission, at the discretion of the
11 executive director or chief counsel.

12 (f) All settlements entered into pursuant to this section shall be
13 final and nonappealable, except upon a showing of fraud or
14 misrepresentation with respect to a material fact.

15 (g) Any proceedings undertaken by the board itself pursuant to
16 a settlement as described in this section shall be conducted in a
17 closed session or sessions. Except as provided in subdivision (c),
18 any settlement entered into pursuant to this section shall constitute
19 confidential information for purposes of Section 45982.

20 (h) This section shall apply only to fee matters in dispute on or
21 after the effective date of the act adding this subdivision.

22 (i) The Legislature finds that it is essential for fiscal purposes
23 that the settlement program authorized by this section be
24 expeditiously implemented. Accordingly, Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code shall not apply to any determination,
27 rule, notice, or guideline established or issued by the board in
28 implementing and administering the settlement program
29 authorized by this section.

30 SEC. 13. Section 46622 of the Revenue and Taxation Code is
31 amended to read:

32 46622. (a) It is the intent of the Legislature that the State
33 Board of Equalization, its staff, and the Attorney General pursue
34 settlements as authorized under this section with respect to fee
35 matters in dispute that are the subject of protests, appeals, or refund
36 claims, consistent with a reasonable evaluation of the costs and
37 risks associated with litigation of these matters.

38 (b) (1) Subject to paragraph (2), the executive director or chief
39 counsel, if authorized by the executive director, of the board may

1 recommend to the State Board of Equalization, itself, a settlement
2 of any civil fee matter in dispute.

3 (2) No recommendation of settlement shall be submitted to the
4 board unless and until that recommendation has been submitted by
5 the executive director or chief counsel to the Attorney General.
6 Within 30 days of receiving that recommendation, the Attorney
7 General shall review the recommendation and advise, in writing,
8 the executive director or chief counsel of the board of his or her
9 conclusions as to whether the recommendation is reasonable from
10 an overall perspective. The executive director or chief counsel
11 shall, with each recommendation of settlement submitted to the
12 board, also submit the Attorney General's written conclusions
13 obtained pursuant to this paragraph.

14 (c) Whenever a reduction of fee in settlement in excess of five
15 hundred dollars (\$500) is approved pursuant to this section, there
16 shall be placed on file, *for at least one year*, in the office of the
17 executive director of the board a public record with respect to that
18 settlement. The public record shall include all of the following
19 information:

20 (1) The name or names of the feepayers who are parties to the
21 settlement.

22 (2) The total amount in dispute.

23 (3) The amount agreed to pursuant to the settlement.

24 (4) A summary of the reasons why the settlement is in the best
25 interests of the State of California.

26 (5) The Attorney General's conclusion as to whether the
27 recommendation of settlement was reasonable from an overall
28 perspective.

29 The public record shall not include any information that relates
30 to any trade secret, patent, process, style of work, apparatus,
31 business secret, or organizational structure that, if disclosed,
32 would adversely affect the feepayer or the national defense.

33 (d) The members of the State Board of Equalization shall not
34 participate in the settlement of fee matters pursuant to this section,
35 except as provided in subdivision (e).

36 (e) (1) Any recommendation of settlement shall be approved
37 or disapproved by the board, itself, within 45 days of the
38 submission of that recommendation to the board. Any
39 recommendation for settlement that is not either approved or
40 disapproved by the board within 45 days of the submission of that

1 recommendation shall be deemed approved. Upon approval of a
2 recommendation for settlement, the matter shall be referred back
3 to the executive director or chief counsel in accordance with the
4 decision of the board.

5 (2) Disapproval of a recommendation for settlement shall be
6 made only by a majority vote of the board. Where the board
7 disapproves a recommendation for settlement, the matter shall be
8 remanded to board staff for further negotiation, and may be
9 resubmitted to the board, in the same manner and subject to the
10 same requirements as the initial submission, at the discretion of the
11 executive director or chief counsel.

12 (f) All settlements entered into pursuant to this section shall be
13 final and nonappealable, except upon a showing of fraud or
14 misrepresentation with respect to a material fact.

15 (g) Any proceedings undertaken by the board itself pursuant to
16 a settlement as described in this section shall be conducted in a
17 closed session or sessions.

18 (h) This section shall apply only to fee matters in dispute on or
19 after the effective date of the act adding this subdivision.

20 (i) The Legislature finds that it is essential for fiscal purposes
21 that the settlement program authorized by this section be
22 expeditiously implemented. Accordingly, Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code shall not apply to any determination,
25 rule, notice, or guideline established or issued by the board in
26 implementing and administering the settlement program
27 authorized by this section.

28 SEC. 14. Section 50156.11 of the Revenue and Taxation Code
29 is amended to read:

30 50156.11. (a) It is the intent of the Legislature that the State
31 Board of Equalization, its staff, and the Attorney General pursue
32 settlements as authorized under this section with respect to fee
33 matters in dispute that are the subject of protests, appeals, or refund
34 claims, consistent with a reasonable evaluation of the costs and
35 risks associated with litigation of these matters.

36 (b) (1) Subject to paragraph (2), the executive director or chief
37 counsel, if authorized by the executive director, of the board may
38 recommend to the State Board of Equalization, itself, a settlement
39 of any fee matter in dispute.



(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of fees in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, *for at least one year*, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the feepayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the feepayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of fee matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back

1 to the executive director or chief counsel in accordance with the
2 decision of the board.

3 (2) Disapproval of a recommendation for settlement shall be
4 made only by a majority vote of the board. Where the board
5 disapproves a recommendation for settlement, the matter shall be
6 remanded to board staff for further negotiation, and may be
7 resubmitted to the board, in the same manner and subject to the
8 same requirements as the initial submission, at the discretion of the
9 executive director or chief counsel.

10 (f) All settlements entered into pursuant to this section shall be
11 final and nonappealable, except upon a showing of fraud or
12 misrepresentation with respect to a material fact.

13 (g) Any proceedings undertaken by the board itself pursuant to
14 a settlement as described in this section shall be conducted in a
15 closed session or sessions.

16 (h) This section shall apply only to fee matters in dispute on or
17 after the effective date of the act adding this subdivision.

18 (i) The Legislature finds that it is essential for fiscal purposes
19 that the settlement program authorized by this section be
20 expeditiously implemented. Accordingly, Chapter 3.5
21 (commencing with Section 11340) of Part 1 of Division 3 of Title
22 2 of the Government Code shall not apply to any determination,
23 rule, notice, or guideline established or issued by the board in
24 implementing and administering the settlement program
25 authorized by this section.

26 SEC. 15. Section 55332 of the Revenue and Taxation Code is
27 amended to read:

28 55332. (a) It is the intent of the Legislature that the State
29 Board of Equalization, its staff, and the Attorney General pursue
30 settlements as authorized under this section with respect to fee
31 matters in dispute that are the subject of protests, appeals, or refund
32 claims, consistent with a reasonable evaluation of the costs and
33 risks associated with litigation of these matters.

34 (b) (1) Subject to paragraph (2), the executive director or chief
35 counsel, if authorized by the executive director, of the board may
36 recommend to the State Board of Equalization, itself, a settlement
37 of any fee matter in dispute.

38 (2) No recommendation of settlement shall be submitted to the
39 board unless and until that recommendation has been submitted by
40 the executive director or chief counsel to the Attorney General.



Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of fees in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, *for at least one year*, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the feepayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the feepayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of fee matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential information for purposes of Section 55381.

(h) This section shall apply only to fee matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 16. Section 60022 of the Revenue and Taxation Code, as added by Section 3 of Chapter 8 of the Second Extraordinary Session of 2001, is amended to read:

60022. (a) “Diesel fuel” means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle.

However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

“Diesel fuel” does not include kerosene, *gasoline*, *liquified petroleum gas*, *natural gas in liquid or gaseous form*, or *alcohol*.

~~“Diesel fuel” includes any combustible liquid, by whatever name~~

~~the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2 (commencing with Section 7301) or Part 3 (commencing with Section 8601).~~

(b) This section shall become operative on January 1, 2007.

SEC. 17. Section 60507 of the Revenue and Taxation Code is amended to read:

60507. All applications for refund provided under this article shall be filed within three years from the date of the purchase of the diesel fuel *or, if the tax was not invoiced at the time of the purchase of the diesel fuel, the application for refund shall be filed within six months after the receipt of an invoice for the tax, whichever period expires later.* Any application filed after the time prescribed shall not be considered for any purpose by the board, the Treasurer, or the state.

SEC. 18. Section 60604 of the Revenue and Taxation Code is amended to read:

60604. Every interstate user, supplier, exempt bus operator, government entity, ultimate vendor, *qualified* highway vehicle operator, *highway vehicle operator/refueler*, train operator, *pipeline operator*, *vessel operator*, and every person dealing in, removing, transporting, or storing diesel fuel in this state shall keep those records, receipts, invoices, and other pertinent papers with respect thereto in that form as the board may require. Failure to maintain records will constitute a misdemeanor punishable as provided in Section 60706.

SEC. 19. Section 60606 of the Revenue and Taxation Code is amended to read:

60606. The board or its authorized representative may examine the books, records, and equipment of any interstate user, supplier, exempt bus operator, government entity, ultimate vendor, *qualified* highway vehicle operator, *highway vehicle operator/refueler*, train operator, *pipeline operator*, *vessel operator*, or person dealing in, removing, transporting, or storing diesel fuel and may investigate the character of the disposition that the interstate user, supplier, exempt bus operator, government entity, ultimate vendor, *qualified* highway vehicle operator, *highway vehicle operator/refueler*, train operator, *pipeline operator*, *vessel operator*, or person makes of the diesel fuel in

1 order to ascertain whether all taxes due under this part are being
2 properly reported and paid.

3 SEC. 20. Section 60636 of the Revenue and Taxation Code is
4 amended to read:

5 60636. (a) It is the intent of the Legislature that the State
6 Board of Equalization, its staff, and the Attorney General pursue
7 settlements as authorized under this section with respect to civil tax
8 matters in dispute that are the subject of protests, appeals, or refund
9 claims, consistent with a reasonable evaluation of the costs and
10 risks associated with litigation of these matters.

11 (b) (1) Subject to paragraph (2), the executive director or chief
12 counsel, if authorized by the executive director, of the board may
13 recommend to the State Board of Equalization, itself, a settlement
14 of any civil tax matter in dispute.

15 (2) No recommendation of settlement shall be submitted to the
16 board unless and until that recommendation has been submitted by
17 the executive director or chief counsel to the Attorney General.
18 Within 30 days of receiving that recommendation, the Attorney
19 General shall review the recommendation and advise, in writing,
20 the executive director or chief counsel of the board of his or her
21 conclusions as to whether the recommendation is reasonable from
22 an overall perspective. The executive director or chief counsel
23 shall, with each recommendation of settlement submitted to the
24 board, also submit the Attorney General's written conclusions
25 obtained pursuant to this paragraph.

26 (c) Whenever a reduction of tax in settlement in excess of five
27 hundred dollars (\$500) is approved pursuant to this section, there
28 shall be placed on file, *for at least one year*, in the office of the
29 executive director of the board a public record with respect to that
30 settlement. The public record shall include all of the following
31 information:

32 (1) The name or names of the taxpayers who are parties to the
33 settlement.

34 (2) The total amount in dispute.

35 (3) The amount agreed to pursuant to the settlement.

36 (4) A summary of the reasons why the settlement is in the best
37 interests of the State of California.

38 (5) The Attorney General's conclusion as to whether the
39 recommendation of settlement was reasonable from an overall
40 perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Section 60609.

(h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in



- 1 implementing and administering the settlement program
- 2 authorized by this section.

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